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**Letter dated 15 December 2010 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council**

Please find attached a progress report on the work of the office of the Prosecutor General entrusted with addressing the crimes in Darfur, and the work of the different relevant investigation committees associated with the office of the Prosecutor (see annex).

I would highly appreciate it if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Dafla-Alla Elhag Ali **Osman**
Permanent Representative

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## Annex to the letter dated 15 December 2010 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

[Original: Arabic]

## Report on the work of the Public Prosecutor on Crimes in Darfur and of the various investigative commissions

### I. Investigations and inquiries

On 11 May 2002, the President of the Republic issued a decision establishing a fact-finding commission to investigate events in the three provinces of Darfur. The Commission, to be chaired by High Court judge Jar al-Nabi Qasam al-Sayyid, was given the task of conducting investigations and fact-finding visits to villages, interviewing the parties involved and assessing losses.

On 13 August 2004, the Minister of Justice issued a decision establishing three commissions of inquiry, which were granted powers of inquiry pursuant to the Code of Criminal Procedure of 1991, in order to investigate allegations of rape in camps for internally displaced persons. All members of that commission were women.

The commissions conducted field visits to the three provinces and to camps for internally displaced persons in order to gather information on the events. The commissions submitted reports after one month of travel in the field. They stressed that the statements collected during that time were ordinary and unremarkable, and that no mention had been made of rape or violent crimes against women.

During that time, the Fact-Finding Commission on the human rights violations allegedly perpetrated by armed groups in Darfur submitted its report. In accordance with its recommendations, the Minister of Justice established a Commission of Inquiry under the High Court judge Muhammad Abdul Rahim. Its members included judges, legal officials and police officers.

The Commission of Inquiry addressed numerous allegations, including the events in Shataya, involving 127 suspects, of whom 11 had been apprehended; the events of Buram, involving 12 suspects; allegations 1096, 1097, 1099 and 1100 of 2005, involving the suspect Khalil Ibrahim, and other allegations brought under items 21, 24, 25, 150, 51, 57, 60, 63, 64, 65, 130, 162, 175, 26 and 44 of the Weapons Act; and the events of Dulayq, involving 28 suspects.

On 11 June 2005, the Chief Justice issued decision 702 (2005) establishing special courts for the perpetrators of crimes against humanity under High Court judge Mahmud Muhammad Said Abkam. Attached hereto are some examples of cases on which the courts have ruled.

On 3 August 2009, the Minister of Justice issued a decision appointing a Special Prosecutor to investigate crimes committed in Darfur since March 2003. The Special Prosecutor would be assisted by a commission of senior legal officials and police officers, who would investigate the crimes and bring cases before the courts.

After considering all reports on the events in Darfur, including the report of the Fact-Finding Commission headed by the former Chief Justice Dafʿullah al-Haj

Yusuf, the Special Prosecutor continued the inquiry that had been opened by the Commission of Inquiry.

The public prosecutor heard numerous witnesses regarding the events in Dulayq, Mukjar, Bindisi, Garsila and neighbouring villages in West Darfur. A number of witnesses in the provinces of North and South Darfur were also summoned.

In order to assist those procedures and facilitate the judicial process, the Minister of Justice issued a decision on 16 September 2008 concerning the establishment in the three provinces of commissions of dignitaries, including prominent figures from the civilian administration and civil society organizations in Darfur.

## II. Obstacles to the course of the inquiry

Before documents can be submitted to a court, evidence must first be collected. The evidence levelled against any suspect must be beyond reasonable doubt, something that is difficult, if not impossible, in view of the continuing internal armed conflict.

The province of Darfur has a surface area of some 510,000 square kilometres, and the roads are difficult. Armed movements and gangs of armed robbers impede citizens' mobility.

Large numbers of citizens affected by the events in the region have left their villages for remote and widely dispersed areas. As a result, it has become difficult to collect their statements, and all efforts may be in vain.

It is difficult to make an accurate assessment of casualties because of the frequent lack of cooperation from the parties.

The opposition has influence over the witnesses in many of the camps, particularly Kalma camp. By pressuring them to shun the investigative commissions, it has significantly prolonged the process.

The lack of a witness-protection system causes many witnesses to have reservations about appearing before the courts and investigative commissions.

On 17 October 2010, the Minister of Justice appointed Mr. Abdel Daiem Zumrawi to replace the previous Special Prosecutor in investigating crimes committed in Darfur since 2003. He is assisted by a large number of advisers and police and security officers.

The office of the new Special Prosecutor for crimes in Darfur met in order to put in place a work plan that stressed the need to investigate all cases as quickly as possible. With regard to the events that took place in the Tabra market on 2 September 2010, the commission decided to give priority to that investigation and proceed with it on all fronts.

After a thorough review of the case, the commission decided to visit the site of the incident with a view to questioning witnesses and evaluating the significance of their testimony.

The commission travelled from Khartoum to the city of El Fasher on 26 October 2010, arriving at 6.00 p.m.

The commission met the head of the state security committee for North Darfur and heard his explanation of the Tabra market incident, which matched the account given by the state governor.

On 27 October 2010, the commission took a 20-minute flight from the city of El Fasher to Tawila. The Special Prosecutor and his team met with the commanders of the armed forces and the police, and then travelled by car from Tawila to Tabra market, a distance at some 17 km.

A map of the incident site was drawn, and the Special Prosecutor and his team walked around the marketplace making general inquiries of the people there.

The commission then began the process of interviewing witnesses and recording their testimony, and interviewed 14 witnesses, including a number who had personally witnessed the incident.

The interviews lasted until 5.00 p.m., by which time the commission had questioned all the witnesses, who were escorted by local civilian authorities. Two lawyers representing family members accompanied the commission from El Fasher and were permitted to be present at interviews, because the commission believed that its work must appear to be fairer and more transparent.

The commission then left to return to the city of El Fasher.

On 28 October 2010, because it was a day on which people would gather in the Tawila market, the commission went back to Tawila: a number of witnesses had to be questioned, of which the commission was able to interview seven.

The commission returned to the city of El Fasher and continued its work by interviewing a number of witnesses, including the medical examiner and the head of the El Fasher Police Department. It then met with and interviewed a number of civilian leaders.

During the course of the investigations, witnesses provided the names of more than eight suspects. After collecting and analysing the evidence, the Public Prosecutor's office took steps to arrest those suspects.

## III. Tribal reconciliations

Tribal reconciliations have been conducted in conjunction with legal measures and investigations, in the belief that reconciliation is the best way to restore stability and end ill-will and bitterness. Reconciliation conferences are conducted in a spirit of amnesty and respect for customary practice. That was the case with the reconciliation conference addressing the Hamada incident, which condemned the Bergid, Rizeigat and Tarjem tribes for their brutal attack on that village and mourned the victims.

In 2006, there was a peaceful coexistence conference between the Habbaniyah and Fallatah tribes. There was another conference between the same two tribes in 2010, at which the two parties agreed to reconciliation and amnesty and mourned the victims.

In 2006, a reconciliation conference took place that involved Tullus, Edd al-Fursan and Nyala.

In August 2006, at a reconciliation conference between the Habbaniyah and the Rizeigat tribes, the parties agreed to an amnesty and a truce. It was also agreed that civilian detainees would be released and persons not already detained would have charges against them dropped, albeit police reports would be retained.

On 9 September 2006, there was a peaceful coexistence conference between nomadic and settled tribes at Jarf.

In February 2006, there was a reconciliation conference between the Dinka and Um Kamlati tribes.

Other conferences in West Darfur and North Darfur resulted in payment of reparations, establishment of friendly relations and the restoration of stability.